

Farm Service Agency, USDA

§ 789.20

than \$75,000 or one-half of the Simplified Acquisition Threshold (as established in the Federal Acquisition Regulation (FAR) (see 48 CFR 2.101) or in other authorized acquisition regulatory or management systems) whichever amount is greater, provided that delivery can be obtained in a timely fashion without the use of the priority rating.

§ 789.18 Limitations on placing rated orders.

(a) *General limitations.* Rated orders may be placed only by persons with the proper authority for items and services that are needed to support approved programs.

(1) A person must not place a DO- or DX-rated order unless authorized by USDA to do so under this part.

(2) Rated orders must not be used to obtain:

(i) Delivery on a date earlier than needed;

(ii) A greater quantity of the item or services than needed, except to obtain a minimum procurable quantity. Separate rated orders must not be placed solely for the purpose of obtaining minimum procurable quantities on each order;

(iii) Items or services in advance of the receipt of a rated order, except as specifically authorized by USDA (see § 789.21(c) for information on obtaining authorization for a priority rating in advance of a rated order);

(iv) Items that are not needed to fill a rated order, except as specifically authorized by USDA or as otherwise permitted by this part;

(v) Any of the following items unless specific priority rating authority has been obtained from USDA or the Department of Commerce, as appropriate:

(A) Items for plant improvement, expansion, or construction, unless they will be physically incorporated into a construction project covered by a rated order; and

(B) Production or construction equipment or items to be used for the manufacture of production equipment. For information on requesting priority rating authority, see § 789.21; or

(vi) Any items related to the development of chemical or biological warfare capabilities or the production of chem-

ical or biological weapons, unless such development or production has been authorized by the President or the Secretary of Defense.

(b) *Jurisdictional limitations.* (1) Unless authorized by the resource agency with jurisdiction (see § 789.10), the provisions of this part are not applicable to the following resources:

(i) All forms of energy (Resource agency with jurisdiction—Department of Energy);

(ii) Health resources (Resource agency with jurisdiction—Department of Health and Human Services);

(iii) All forms of civil transportation (Resource agency with jurisdiction—Department of Transportation);

(iv) Water resources (Resource agency with jurisdiction—Department of Defense, U.S. Army Corps of Engineers);

(v) All materials, services, and facilities, including construction materials for which the authority has not been delegated to other agencies under Executive Order 13603 (Resource agency with jurisdiction—Department of Commerce); and

(2) The priorities and allocations authority in this part may not be applied to communications services subject to Executive Order 13618 of July 6, 2012 (3 CFR, 2012 Comp., p. 273).

Subpart D—Special Priorities Assistance

§ 789.20 General provisions.

(a) APAS is designed to be largely self-executing. However, if production or delivery problems arise, a person should immediately contact the Farm Service Agency Administrator for special priorities assistance pursuant to §§ 789.20 through 789.24 and as directed by § 789.73. If the Farm Service Agency is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, USDA may forward the request to another resource agency, as appropriate, for action. Special priorities assistance is a service provided to alleviate problems.

(b) Special priorities assistance is available for any reason consistent with this part. Generally, special priorities assistance is provided to expedite